

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (

REF NO: BR/146/13/T

LOCATION: 20 Monterey Gardens
Bognor Regis
West Sussex

PROPOSAL: 3 x Oak Trees - Reduce property side by 2.9m and shape in top. Remove any dead, crossing or epicormic branches as necessary

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This proposal seeks consent to carry out works to Oak Trees on the rear boundary.
TOPOGRAPHY	Predominantly flat
TREES	The Oak trees the subject of this application but various trees along the rear boundaries of Monterey Gardens.
SITE CHARACTERISTICS	Three storey terraced property with front dormers and integral garage. The property has red brickwork, wood cladding on upper level with a tiled roof.
CHARACTER OF LOCALITY	Residential cul-de-sac comprising terraced properties and flats with grassed area and playground to front. There is a garage compound to the rear of the site.

RELEVANT SITE HISTORY

BR/147/13/T	Pollard 2 No Ash trees with twin stems to main stem leaving 6 metres standing	ApproveConditionally 01-08-2013
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Planning Permission was recently granted for the neighbouring property to undertake work to Ash trees in their rear garden.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Bognor Regis Town Council - raise no objection subject to approval of the A.D.C. Arboriculturist. It is recommended, if approved, that no work should be carried out if any birds or bats are nesting.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Council's Arboriculturist: I have surveyed the Oak trees and which are healthy and prominent.

report

There is scope to reduce these trees without detrimentally affecting their visual appearance. A Planning Condition for specific requirement is written, below;

Suggested Planning Conditions for the three English Oaks:

- All pruning to be carried out in accordance with current British Standards (2010).
- Pruning must not exceed the removal of 2.5m growth from the side facing the Monterey Garden Properties and 3m from their height to substantial side branch growths.
- Unless for dead wooding the tree and removing old stubs all pruning work should be carried out using a pruning saw to the correct target pruning cuts.
- Reduction work must not exceed wound diameters greater than 60mm.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary; and
Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX1

Circular 36/78

XXX2

DETR TPO's A guide to Law and Good Practice

POLICY COMMENTARY

The above policies are general and, other than Circular 36/78 and DETR TPOs, are not specific to trees.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 198 of the Town and Country Planning Act 1990 states:

"If it appears to a Local Planning authority that it is expedient in the interest of amenity to make provision for the preservation of trees.... they may for that purpose make an order"

The works to the trees are to be judged having regard to amenity

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The three Oak trees are sited at regular intervals on the rear boundary of this relatively small garden. The trees are of a significant height and spread and although not readily visible to the front of the site (due to the height of the residential buildings) are readily visible to the rear in the garage compound.

The applicant has health & safety concerns with the trees as they drop branches in the garden area where children are playing. The Council's Arboriculturist has inspected the trees and he has raised no objection to the reduction.

It is therefore recommended to approve the application, subject to conditions.

HUMAN RIGHTS ACT

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The burning of materials obtained by site clearance or from any other source shall not take place within 6 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining.

Reason: To protect trees and vegetation from fire damage in the interests of the visual amenities of the locality.

- 2 The work hereby approved shall be undertaken under the supervision of the Local Planning Authority who shall be notified in writing, not less than 7 days before the work commences.

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of amenity.

- 3 The works hereby approved shall involve the pruning of the three Oak trees subject to the following criteria: (1) all pruning to be carried out in accordance with current British Standards (2010); (2) pruning must not exceed the removal of 2.5m growth from the side facing the Monterey Garden Properties and 3m from their height to substantial side branch growths; (3) unless for deadwooding the tree and removing old stubs all pruning work should be carried out using a pruning saw to the correct target pruning cuts; and, (4) reduction work must not exceed wound diameters greater than 60mm.

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of amenity.

- 4 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

- 5 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.